



**Minutes of the Meeting  
Delaware and Raritan Canal Commission  
December 19, 2018**

TIME: 10:10 a.m.  
DATE: December 19, 2018  
PLACE: DRCC Office, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

Vice Chairman John Loos, Commissioner Bruce Stout, Commissioner Mary Leck, Commission Philip Lubitz and Director Olivia Glenn.

STAFF: Executive Director John Hutchison, Mr. Joseph Ruggeri, DAG Melissa Abatemarco, Ms. Colleen Christie Maloney and Ms. Tammy Romsdahl.

GUESTS: Superintendent Patricia Kalleser; Mr. Mike Sellar, NJWSA; Mr. Robert von Zumbusch, D&R Canal Commission Advisory Committee; Mr. Robert Barth, D&R Canal Watch; Mr. Bill Doran, BD&WL Enterprises, LLC; Ms. Sonia Szczesna, Tri-State Transportation Campaign; Mr. Jordan Rizzo, Dynamic Engineering; Mr. Robert Freud, Dynamic Engineering.

Vice Chairman Loos announced that this was a monthly meeting of the Delaware and Raritan Canal Commission and that all provisions of the "Senator Byron Baer Open Public Meetings Act" (OPMA) had been complied with in the scheduling of the meeting.

**Administrative Items**

The Commission confirmed the January 16, 2019 Commission meeting date.

**Minutes**

Vice Chairman Loos called for a motion on the November 26, 2018 meeting minutes. Commissioner Lubitz made a motion to approve the minutes and Commissioner Stout seconded the motion. Vice Chairman Loos asked for corrections or discussion on the minutes. Hearing none, he called for a vote. The minutes were approved unanimously.

## Review Zone Projects

### **Zone A Projects**

Vice Chairman Loos asked for comment on the Zone A projects. Commissioners Lubitz and Stout discussed the visual impact of projects from the park, including existing intervening structures and vegetation, and preference that the applicant provide verification to illustrate the visual impact.

#### 18-0178E 10 Princess Road Warehouse (Lawrence)

Vice Chairman Loos asked for a motion on the project. Commissioner Stout moved to approve the project and Commissioner Lubitz seconded the motion. The vice chairman asked for comment from the commission and public. Hearing none, he called for a vote. The project was approved unanimously.

#### 18-2091K NJAW Canal Rd Treatment Plant and Spoils Stockpile Facility (Franklin)

Vice Chairman Loos asked for a motion on the project. Commissioner Leck moved to approve the project and Commissioner Stout seconded the motion. The vice chairman asked for comment from the Commission and public. Hearing none, he called for a vote. The project was approved unanimously.

#### 18-3020D Weston Canal and Randolph Road Warehouse Facility (Franklin)

Vice Chairman Loos asked for a motion on the project. Commissioner Stout discussed the stormwater management plan with Mr. Ruggeri, including drainage toward both the canal and a drainage basin. Commissioner Lubitz moved to approve the project and Commissioner Stout seconded the motion. The vice chairman asked for comment from the commission and public. Hearing none, he called for a vote. The project was approved unanimously.

#### 17-3911B Woodstone at West Windsor (West Windsor)

Vice Chairman Loos asked for comment on the project and there was discussion about the height of the proposed buildings, setback and visibility from the park. Vice Chairman Loos asked for a motion. Commissioner Stout expressed concern over the height of one of the proposed structures, which would be 70 feet, and questioned whether that structure would be adequately screened from the park during the winter season. He noted that while the applicant's submission included photographs which indicated that the project would be entirely screened, those photographs appeared to be taken during the spring or summer season.

The applicant not being present to answer questions regarding the project, the Commissioners discussed whether it would be appropriate to approve the project with a condition to ensure that it would be adequately screened from a person in the Delaware and Raritan Canal State Park. Commissioner Stout then moved to approve the project with the condition that the applicant provide additional verification of the fact that the proposed 70-foot-high structure will not be visible from the park during the winter season. Commissioner Lubitz seconded the motion. There was further discussion and Commissioner Stout amended his motion. Commissioner Stout moved to approve the project with the condition that the applicant verify that the 70-ft-high structure will not be visible from the park during the winter season and that the verification shall be confirmed by the Executive Director and Mr. Ruggeri without requiring subsequent Commission approval. Commissioner Lubitz proposed an amendment to Commissioner Stout's original motion, which embodied the condition discussed with respect to authorizing the Executive Director and the Commission engineer to confirm the height and screening of the proposed

70-foot structure. Vice Chairman Loos called for further comment and hearing none, he called for a vote. The motion was approved unanimously.

**Zone B Projects**

16-4934 7 Fitzgerald Avenue Parking Expansion (Monroe)

18-4988A 775 State Road Liquor Store/Bottle King (Princeton)

18-4411B 72-76 Madison Ave Residential (Franklin)

18-4911A Montauk Services Bus Depot (Franklin)

18-5243 Proposed Lightbridge Academy Daycare (South Brunswick)

Vice Chairman Loos asked for comments on the Review Zone B projects.

Commissioner Lubitz and Mr. Ruggeri discussed 18-4988A 775 State Road Liquor Store/Bottle King and how maintained lawn is considered disturbance. Commissioner Stout, Commissioner Lubitz and Mr. Ruggeri discussed the design of the proposed underdrain system valve at the project site. Mr. Ruggeri noted in response to a question from Commissioner Lubitz that the valve exists to be opened in the event that stormwater system failed. However, Mr. Ruggeri noted that any attempt to open the valve absent a system failure, would contravene the provisions of the applicant's operation and maintenance manual for the system.

Vice Chairman Loos discussed the proposed 1:1 mitigation ratio for stream corridor preservation proposed for 18-5243 Proposed Lightbridge Academy Daycare. The Vice Chairman questioned whether this mitigation complied with the requirement at N.J.A.C 7:45-12.4(a)2, that the mitigation provide a "greater ecologically beneficial effect" when compared with compliance with the stream corridor impact standards.

Mr. Ruggeri explained that the proposed mitigation area is on a lot adjacent to the project site, but sufficiently close in the staff's estimation to support the 1:1 ratio. The Commissioners discussed whether the proposed mitigation was in fact ecologically beneficial and whether it would be possible for the applicant to increase the area of stream corridor proposed for preservation. Mr. Doran, representing the applicant, indicated that it could be possible to acquire additional stream corridor, but that this depended upon the willingness of the property owner to sell an interest in the land, and the price the property would ask for such an acquisition.

Vice Chairman Loos called for a motion. Commission Stout moved to deny the project without prejudice, so the applicant can return with an enhanced mitigation proposal mitigation that exceeded the 1:1 ratio and thereby more readily provided a "greater ecologically beneficial effect" when compared with compliance with the stream corridor impact standards. Commissioner Leck seconded the motion. Vice Chairman Loos asked for questions or comments. Hearing none, he called for a vote. The motion was approved unanimously.

Vice Chairman Loos called for further discussion on the remaining four Zone B projects. Commissioner Stout moved the approval of the remaining four projects: 16-4934 7 Fitzgerald Avenue Parking Expansion; 18-4988A 775 State Road Liquor Store/Bottle King; 18-4411B 72-76 Madison Ave Residential; and 18-4911A Montauk Services Bus Depot. Commissioner Lubitz seconded the motion. The four projects were approved unanimously.

### **Executive Director's Report**

Director Hutchison reported on the monthly workload, fee collections and significant meetings.

The Director noted that 511 file boxes have been catalogued by Tiffany Bennett and that the task of cataloging and filing the Commission's project files dating back to 1980 was complete. The project would now move on to consolidating active work files, fiscal and personnel records in one area of the office.

Staff has also begun an examination of approximately 30 file boxes containing the records compiled by former-Director Amon. These documents were not organized other than how they were grouped in the file cabinets. They contain the plans and memoranda to many projects to construct and develop the park dating from the 1970s and may be useful to the Division of Parks and Forestry in the future. There are also a significant number of documents related to the various historic districts and 10 boxes of NJWSA projects undertaken in the park dating to the 1980s.

In the course of emptying the attic space behind the Executive Director's office, Director Hutchison observed the wiring situation. All of the Commission's computers, wi-fi, router, run through a single extension cord plugged in the attic. Director Hutchison noted that this was threat to the Commission's continuity of operations and that Bryan Electric of Trenton was contacted to undertake necessary repairs.

The Director noted that NJWSA will begin interior building repairs at the Commission offices. Molded sheetrock from the roof leak will be replaced, additional moldings will be installed on the floors to combat rodents, the rooms will be repainted, and holes patched.

At the invitation of Director Glenn, Mr. Hutchison attended the D&R Greenway Bicycle Connector Project conceptual plan meeting in Trenton on November 28<sup>th</sup>. He noted that it was interesting to examine how the group proposes to lay out a series of separated trails and on-street connections through South Trenton and Hamilton Township to close the gap in the Circuit Trails network between the new Wellness Loop in downtown Trenton and the Delaware and Raritan Canal multipurpose trail/Delaware River Heritage Trail to Bordentown.

Director Hutchison also reported on his meeting with OMB Director Ridolfino about the compensation for Commission engineers.

Director Hutchison reported that Lambertville residents had contacted the commission with concerns about NJWSA tree removal and maintenance activities along the west side of the canal in Lambertville. The Director noted that the work is being conducted pursuant to the 1986 three-party lease. Many residents are unaware of the jurisdictional issues surrounding the canal and assume that the Commission owns the park and conducts the maintenance of the canal. Director Hutchison noted that he responded to a series of telephone and email queries on the topic, and that he had discussed the issue with Mayor DeVecchio and responded to an email that included Mayor-elect Faul and City Council Clerk Ege. He also reported that NJWSA Director Gates had directed the authority staff to post "FAQs" regarding the activities in Lambertville on their website and to share them with elected officials and concerned residents. He noted that there was an unfortunate rumor circulating in Lambertville that the work is

related to the reactivation of the Black River & Western Railroad; which is untrue.

### **Park Superintendent's Report**

Superintendent Kalleser reported on management agreements related to the Frenchtown Preserve, Horseshoe Bend Park and Kugler Woods in Delaware Township. She reported on the possible use of National Resource Damages funding for restoration of the path and preservation activities in the Duck Island areas of Lock One and Lock Two area. She reported on DEP discussions regarding interpretive information about high water levels along the Delaware River, a future meeting regarding with the D&R Greenway regarding crosswalks in Trenton, and special use permits related to Department of Transportation work at Landing Lane in New Brunswick, and Route 29 at Interstate Route No. 95.

### **New Jersey Water Supply Authority (NJWSA) Report**

Mr. Sellar reported on the status of the dredging project and that the dried dredged materials are being trucked off site. NJWSA staff is busy with winter maintenance and tree and undergrowth trimming.

Vice Chairman Loos asked Mr. Sellar to prepare an update for the January or February meeting regarding projects funded by DRCC mitigation.

### **Old Business**

None.

### **New Business**

DAG Melissa Abatemarco advised Commissioners that they should avoid pressing "reply all" when sending emails on public policy issues relating to the Commission. She noted that the exchange of emails in which a quorum of Commissioners participated and discussed public business could be considered a meeting requiring adequate public notice under the provisions of the OPMA.

### **D&R Canal Commission 2018 Annual Report**

Director Hutchison presented the commission's draft 2018 annual report and asked for comments.

Commissioner Leck, Vice Chairman Loos, and Director Hutchison discussed stream corridor inspections and the benefits of plotting the Commission stream corridors on a GIS layer for NJ Geo-Web interactive mapping tool. Director Glenn suggested that the Commission coordinate this activity with the DEP Green Acres program, which has staff conversant with the technical issues involved in such a project.

Director Glenn noted that the language in the conclusion of the draft Annual Report on page 13 should be revised to include information regarding the Administration's efforts to support the Commission. Director Glenn further noted that Commissioner McCabe had submitted a list of Commission appointments to the Governor's Office for their consideration and potential submission to the Senate for advice and consent. Director Glenn also noted that the DEP had recently adopted guidelines for the preparation and content of Department-related reports, and that it would be appropriate to incorporate such guidelines into the draft. Director Hutchison agreed and proposed to transmit the draft report to the DEP Communications Office for review.

Commissioner Lubitz moved to approve the Annual Report with any editorial and stylistic edits

proposed by the Commissioner's Office and incorporated into the draft by Director Hutchison. Commissioner Leck seconded the motion. It was approved unanimously.

**Circuit Trails Report**

Ms. Szczesna, of the Circuit Trails Coalition, presented on the trail network including the new Wellness Loop in downtown Trenton, and the role of the D&R Canal State Park path as part of the circuit trails. She discussed the benefit of the trail network related to jobs, parks, recreational opportunities, and transportation.

**Public Forum**

Mr. Robert Barth, D&R Canal Watch, presented an activity list for 2019.

Mr. Robert von Zumbusch, D&R Canal Commission Advisory Committee, commented on the benefits of a mapping tool for stream corridor and a system searchable by block and lot.

**Executive Session**

At 12:00 p.m., Vice Chairman Loos called for a motion to convene in executive session to discuss legal and personnel matters. Commissioner Stout moved that the Commission enter executive session and Commissioner Lubitz seconded the motion. The motion was approved unanimously.

**Public Session**

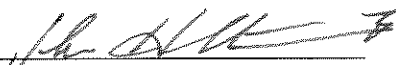
The Commission returned at 12:30.

**Adjournment**

Vice Chairman Loos called for a motion to adjourn. Commissioner Leck moved to adjourn and Commissioner Stout seconded the motion. The motion was approved unanimously.

The commission adjourned at 12:30 p.m.

Respectfully submitted,

  
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John Hutchison, Secretary